

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

HAROLD OVERTON,

Plaintiff,

vs.

**NAVAJO EXPRESS, INC. AND
DAVID MATTHEW FADULE,**

Defendants.

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CIVIL ACTION NO. 3:22-01770-L

**DEFENDANTS' APPENDIX TO MOTION FOR PARTIAL
SUMMARY JUDGMENT & BRIEF IN SUPPORT**

Exhibit A Excerpts from the Oral and Videotaped Deposition of Jay Thomas (DEF APPENDIX 0001 – 0011).

Respectfully submitted,

By: /s/ Michael D. Colvin
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DAVID FADULE AND NAVAJO
EXPRESS, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2023, a copy of this document was served on all parties and counsel of record via the Court's electronic filing system.

/s/ Michael D. Colvin
Michael Colvin

EXHIBIT "A"

Jay Thomas 30(b)(6)
July 21, 2023

Jay Thomas 30(b)(6)
IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Civil Action No. 1:22-CV-001100-H

RULE 30(b)(6) VIDEOTAPE DEPOSITION OF:
JAY THOMAS - July 21, 2023
Navajo Express, Inc.

HAROLD OVERTON,

Plaintiff,

v.

NAVAJO EXPRESS, INC., AND DAVID MATTHEW FADULE,

Defendants.

PURSUANT TO NOTICE, the Rule 30(b)(6) videotape deposition of JAY THOMAS, Navajo Express, Inc., was taken on behalf of the Plaintiff at 1001 17th Street, Suite 300, Denver, Colorado 80202, on July 21, 2023 at 8:53 a.m., before Ellie K. Liebenow, Registered Professional Reporter and Notary Public within Colorado.

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A P P E N D I X

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Also Present:

Michael Banks, Videographer

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1 liability insurance that Navajo Express has that was
2 in effect and applicable to the claims of Harold
3 Overton, is it only the \$5 million policy that's been
4 produced in the case?

5 A. Yes.

6 Q. There's no excess?

7 A. No.

8 Q. Describe in general, at least as of
9 February of 2020, Navajo's policies and procedures as
10 they relate to hiring drivers and qualifying drivers.

11 A. The recruiting department has recruiters
12 that will answer questions, take applications on-line
13 for drivers that have applied for employment. They
14 will discuss with that driver, ask them questions, and
15 discuss our available openings to see if there's going
16 to be a match. They're going to review the
17 application and make sure that the application is
18 completely filled out and that the driver has
19 supposedly disclosed everything. Then at that time,
20 if the driver is interested in coming, they will move
21 that electronic application over to another party, a
22 background investigator in the recruiting department.
23 The background investigator will then run the MVR, the
24 PSP, the CDLIS, the DAC report, criminal background.
25 There may be a couple others they run, but they run

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1 all the reports that are required to be ran. PS -- I
2 said PSP. And if the driver then meets the
3 qualification standards set by the company, then they
4 will schedule that driver for orientation. Well, that
5 goes back to the recruiter and the recruiter schedules
6 the driver for orientation. Once the driver arrives
7 in orientation, he will begin completing the rest of
8 his paperwork for his driver qualification file, and
9 the orientation or onboarding assistant will be
10 gathering that and submitting that to the safety
11 department. The driver then is going to be tested on
12 his backing skills, his human performance evaluation,
13 a pretrip inspection, a road test of at least seven
14 miles. And then they will attend the rest of
15 orientation, which is basically training by -- or
16 performed by various departments or topics. Could be
17 hours of service, vehicle maintenance, how to put
18 chains on, et cetera. Once the -- we will drug test
19 and perform a physical on the driver. They're
20 in-house. Once the results of those come back and
21 orientation has been completed after three -- two and
22 a half to three days, the driver is assigned to a
23 truck, introduced to his dispatcher. And from there,
24 he's handed off to the operations department, he or
25 she.

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1 A. No.

2 Q. Is he still employed with the company?

3 A. No. Jay Thomas 30(b)(6)
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4 Q. And when did Mr. Haggerty leave the
5 company?

6 A. December of last year.

7 Q. So December of 2022?

8 A. Correct.

9 Q. And why did Mr. Haggerty leave the
10 company?

11 A. He took a new position with FFE in
12 Dallas, Texas.

13 Q. To your knowledge, did Mr. Haggerty
14 leaving Navajo Express have anything to do with
15 inadequate performance in his role as director of
16 safety?

17 A. No.

18 Q. And describe the training that safety
19 was providing to the new hire -- the new driver hires
20 at orientation in February of 2020.

21 A. They cover a lot of material. They're
22 covering hours of service. They're covering accident
23 procedures. They're covering OS&D or over, short, and
24 damaged for those not in trucking. They're covering,
25 you know, proper procedures, you know, out on the

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1 roadway, following distances, how to use your
2 communication devices in the truck. They're given DOT
3 testing. I'm sure I've missed something, but it's
4 pretty in-depth.

5 Q. As part of this training process by
6 safety at orientation, are tangible materials used,
7 for example, handouts, PowerPoints, manuals, things of
8 that nature?

9 A. Yes, some of them is -- or are.

10 Q. As it -- what -- I'm sure -- I've seen
11 Navajo Express's driver policy manual, so I'm sure
12 that's discussed in some capacity?

13 A. Yes.

14 Q. What other tangible materials are
15 provided to the drivers and used in training the
16 drivers related to this safety process?

17 A. Hours of service, they're given hours of
18 service paperwork. They're given -- we actually have
19 them filling out logs, you know, for the ones that
20 might not have ever filled out a paper log. So we go
21 over all that. We do some trip planning where they're
22 given some loads and stuff on the tablet that's going
23 to be in their truck, and they need to plan their trip
24 and their fuel stops, their rest breaks, and so forth
25 associated with hours of service. They're given a DOT

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1 exam. They're given alcohol and drug policies.

2 They're given distracted driving policies. That's all

3 I can think of off the top of my head. Jay Thomas 30(b)(6)
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4 Q. Take us through the accident procedure

5 training that the new hires receive during the

6 orientation.

7 A. We have a video that covers all of that.

8 It is custom content, so it's tailored straight to our

9 company or specific to our company. It talks about,

10 you know, making sure that you check for injuries, you

11 call 911, you send in a Macro 10, which is on their

12 device that breaks our screen to let us know there was

13 an accident, breaks all the screens in the company, so

14 all dispatch and all safety know that a truck was

15 involved in an accident.

16 They're given step-by-step instructions

17 that's in the front of their permit book that we go

18 over on -- to call the 24-hour accident line that is

19 with carrier -- or Claims 411, and so they're

20 adjusters and they start working the claim from that

21 angle. Anything that is involved in an injury or an

22 occupied vehicle, then they're required to escalate

23 that to a member of safety management. And the

24 drivers are all informed of the processes and so forth

25 of how this -- they're taught how to take the

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1 pictures, that we want, you know, pictures of all the
2 vehicles, pictures from the scene, distances, pictures
3 of anything that they think is relevant, any damage
4 that wasn't caused by the accident that was on the
5 claimant's vehicle. So we cover a lot of accident
6 procedures.

7 Q. Any part of those accident procedures
8 where the drivers are trained to create some sort of
9 written statement as to their perspective on what
10 happened in the wreck?

11 A. If you're asking do they prepare a
12 written statement after the fact, not always. Some of
13 them will tell us that or they'll write it out and
14 give it to us, but it's not something that we're going
15 to require.

16 Q. Navajo Express does not require its
17 drivers to create any type of written statement
18 regarding how or why an accident may have occurred?

19 A. They've given a verbal statement to the
20 adjusters of Claim 411, which in that period of time
21 could have been before Claim 411 bought the other
22 company, which was -- I can't think of what they used
23 to be called, but they've always called -- I mean,
24 it's always been on to an outside adjusting company.
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25 Q. So if I'm understanding correctly, the

1 Jay Thomas 30(b)(6)
I, JAY THOMAS, do hereby certify that I
2 have read the above and foregoing deposition and that
3 the same is a true and accurate transcription of my
4 testimony, except for attached amendments, if any.

5 Amendments attached () Yes () No

6

7

8

JAY THOMAS

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10

11 The signature above of JAY THOMAS was
12 subscribed and sworn to or affirmed before me in the
13 county of _____, state of
14 _____, this _____ day of
15 _____, 2023.

16

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Notary Public
My Commission expires:

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Harold Overton 7/22/23 (ekl)
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Jay Thomas 30(b)(6)
REPORTER JULY 21, 2023

STATE OF COLORADO Jay Thomas 30(b)(6)
July 21, 2023
) SS.
CITY AND COUNTY OF DENVER)

I, ELLIE K. LIEBENOW, Registered Professional Reporter and Notary Public ID 20034039357, State of Colorado, do hereby certify that previous to the commencement of the examination, the said JAY THOMAS was duly sworn or affirmed by me to testify to the truth in relation to the matters in controversy between the parties hereto; that the said deposition was taken in machine shorthand by me at the time and place aforesaid and was thereafter reduced to typewritten form; that the foregoing is a true transcript of the questions asked, testimony given, and proceedings had.

I further certify that I am not employed by, related to, nor of counsel for any of the parties herein, nor otherwise interested in the outcome of this litigation.

IN WITNESS WHEREOF, I have affixed my signature this 24th day of July, 2023.

My commission expires November 18, 2023.

X Reading and Signing was requested.

 Reading and Signing was waived.

 Reading and Signing is not required.

Ellie K. Liebenow

Ellie K. Liebenow
Registered Professional Reporter